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10/092,213	03/06/2002	Scott Edward Klopfenstein	PU010196	8594

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JOSEPH S. TRIPOLI  
THOMSON MULTIMEDIA LICENSING INC.  
2 INDEPENDENCE WAY  
P.O. BOX 5312  
PRINCETON, NJ 08543-5312

EXAMINER

VU, NGOC K

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/092,213

**Applicant(s)**

KLOPFENSTEIN, SCOTT EDWAR

**Examiner**

Ngoc K. Vu

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/6/02, 2/6/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claim 7 is objected to because of the following informalities: it seems that the term "said first program" in line 4-5 of claim 7 referred to "the said second program" corresponding the limitations recited in lines 2-4 of claim 7. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 7-12 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lazarus et al (US 5,652,613 A).

Regarding **claims 1 and 20**, Lazarus discloses a method and apparatus for adaptively storing in a memory program guide information for a plurality of programs (storing program schedule information in a memory 140 - see col. 3, lines 7-13 and figure1), said method and apparatus comprising:

means for determining whether a first program in said program guide is non-preferred by a user (for example, it is determined that a viewer is less interested in a program in EPG with lower individual schedule\_record\_value – see col. 6, lines 29-42); and

means for reducing program guide information associated with said first program from said memory if said first program is non-preferred by said user (information contained in un-expired program records is prioritized and deleted according to its current value to the viewer,

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e.g., deleting program schedule information associated with the least valuable program having the lowest total\_program\_value from the memory 140 - see abstract, col. 4, lines 21-26; col. 6, lines 43-55).

Regarding **claim 2**, Lazarus discloses that the "normal" channels are those not designated purchased or favorite, and, accordingly, have lower values attached to them. Lazarus further discloses that the viewers are more interested in programs with very high individual schedule\_record\_value than in programs with lower individual schedule\_record\_values. That is, the non-preferred or less interested channel or program to viewer is viewed less than the threshold number of times or the channel/program is least frequently watched (see col. 6, lines 34-41 and col. 5, lines 64-67).

Regarding **claim 3**, Lazarus discloses that any type of data associated with a program in the schedule can be evaluated and prioritized. The channel is identified as non-preferred or less interested to viewer having least valuable Long\_Title and Information Record (see col. 5, lines 36-39; col. 6, lines 42-49).

Regarding **claim 7**, Lazarus discloses determining a program in the EPG is of interest to the viewer, e.g., the program with higher value, and storing the program guide information for the program if it is of interest to the viewer (see col. 6, lines 22-25; col. 4, lines 21-26).

Regarding **claim 8**, Lazarus discloses that the higher values are assigned to time periods, channels and air times more likely to interest the viewer. The EPG permits the viewer to designate favorite channels and keeps a record of these channels along with the premium channels that the viewer has purchased. The system could be programmed to use the highest schedule\_record\_value for a program as that program's value. This embodiment might be useful in instances where it is determined that viewers are more interested in programs with very high individual\_schedule\_record values. That is, a favorite or preferred channel or

program to viewer is viewed more than the threshold number of times or a channel/program is frequently watched than others by monitoring viewing behavior of the viewer (see col. 5, lines 58-67; col. 6, lines 34-41).

Regarding **claim 9**, Lazarus discloses that any type of data associated with a program in the schedule can be evaluated and prioritized. The channel is identified as preferred having higher valuable Long\_Title and Information Record (see col. 5, lines 36-39; col. 6, lines 42-49).

Regarding **claim 10**, Lazarus discloses that the programs are broadcast from cable, direct satellite (see col. 1, lines 27-32).

Regarding **claim 11**, Lazarus discloses that the programs comprise television programs (see col. 1, lines 27-32; col. 3, lines 27-30).

Regarding **claim 12**, Lazarus discloses providing program guide information (see col. 3, lines 27-30).

4. Claims 1, 7, 8, 10-13, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Rothmuller (US 5,635,989 A).

Regarding **claims 1 and 20**, Rothmuller discloses a method and apparatus for adaptively storing in a memory program guide information for a plurality of programs (storing program schedule information in a memory 20 - see col. 4, lines 14-16 and figure1), said method and apparatus comprising: determine whether a first program in said program guide is non-preferred by a user; and reduce program guide information associated with said first program from said memory if said first program is non-preferred by said user (determining a program having the oldest data/time stamp from the favorite program list, and automatically remove its program title from the list after expiration of a predefined time period. If the date/time stamp associated with a given program exceeds the predefined time, for example, two months, the program title is removed from the list. The microprocessor 15 can be programmed to

periodically review the favorite program list to determine if any programs should be deleted. The predefined period of time is programmable, and can be set by the viewer) (see col. 3-4, lines 5-16; col. 6, lines 48-59).

Regarding **claims 7-8**, Rothmuller discloses that the microprocessor 15 determines whether a new program title should be stored for the favorite list, and the new program title is stored if it is of interest to the viewer. That is, the program is most frequently watched based on the monitoring viewing habit of the viewer (see col. 6, lines 30-47).

Regarding **claim 13**, Rothmuller discloses an apparatus for providing a program guide listing a plurality of channels, a program schedule for each channel, and a plurality of programs for each channel (see figure 1 and abstract), said apparatus comprising:

- a tuner (12) for tuning a video signal received via an antenna, where said video signal contains program guide information;

- a demodulator (13) for demodulating said tuned video signal;

- a decoder (14) for decoding said demodulated video signal;

- a memory (20) for storing said decoded programming guide information, and a memory (20) allocation software; and

- a processor (15), upon executing said memory allocation software, is configured to:

- determine whether a first program in said program guide is non-preferred by a user; and
  - reduce program guide information associated with said first program from said memory if said first program is non-preferred by said user (determining a program having the oldest data/time stamp from the favorite program list, and automatically remove its program title from the list after expiration of a predefined time period. If the date/time stamp associated with a given program exceeds the predefined time, for example, two months, the program title is removed from the list. The microprocessor 15 can be programmed to periodically review the

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favorite program list to determine if any programs should be deleted. The predefined period of time is programmable, and can be set by the viewer) (see col. 3-4, lines 5-16; col. 6, lines 48-59).

Regarding **claims 10-12 and 17-19**, Rothmuller discloses plurality of programs including television programs and program guide information are broadcast from satellite (see col. 3, lines 15-23 and 51-59).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lazarus et al (US 5,652,613 A) in view of in view of Wehmeyer et al (US 5,867,226 A).

Regarding **claim 4**, Larazus discloses deleting schedule information in ascending order of value, stating with the least valuable information, and continues until enough space is available in memory to store the schedule update (see abstract). Larazus does not disclose the program guide information comprises basis program information and extended program information. However, Wehmeyer shows in figure 1 the basis program information 110 and extended program information 120 including the detailed information of the selected program (see figure 1). Therefore, it would have been obvious to one of ordinary skill in the art to modify Larazus by displaying the basis program information and extended program information including the detailed information of the selected program in order to provide the viewer more information about the selected program from the program guide information.

Regarding **claims 5, 6** and further regarding **claim 4**, Larazus as modified by Wehmeyer

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further discloses deleting schedule information in ascending order of value, stating with the least valuable information, and continues until enough space is available in memory to store the schedule update. Larazus further discloses that any information stored in the EPG that may become obsolete by virtue of the passage of time can be scanned and deleted (see abstract and col. 4, lines 10-59). Larazus and Wehmeyer do not disclose removing the extended program information. Official Notice is taken that deleting from a memory completely or partially the program information of the program that is less interested to the user is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination of Larazus and Wehmeyer by deleting from the memory completely or partially the detailed program information of the program that is less interested to the user in order to save the space of the memory.

7. Claim 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothmuller (US 5,635,989 A) in view of Wehmeyer et al (US 5,867,226 A).

Regarding **claim 14**, Rothmuller does not disclose the program guide information comprises basis program information and extended program information. However, Wehmeyer shows in figure 1 the basis program information 110 and extended program information 120 including the detailed information of the selected program (see figure 1). Therefore, it would have been obvious to one of ordinary skill in the art to modify Rothmuller by displaying the basis program information and extended program information including the detailed information of the selected program in order to provide the viewer more information about the selected program from the program guide information.

Regarding **claims 15 and 16**, Rothmuller as modified by Wehmeyer further discloses removing the program title of the program having the oldest data/time stamp from the favorite list corresponding to the predefined period that is set by the viewer (see col. 40-59). Rothmuller



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and Wehmeyer do not disclose removing the extended program information. Official Notice is taken that deleting from a memory completely or partially the program information of the program that is less interested to the user is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination of Larazus and Wehmeyer by deleting from the memory completely or partially the detailed program information of the program that is less interested to the user in order to save the space of the memory.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ha (US 6,490,724 B1) teaches a method of analyzing/searching user's viewing habit regarding aerial broadcasting.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Ngoc K. Vu', with a long horizontal flourish extending to the right.

Ngoc K. Vu  
Examiner  
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December 8, 2004